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UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA	)	No. CR. 99 - 0261
	)	
	)	
v.	)	INFORMATION
	)	
	)	VIOLATION:
NIPPON GOHSEI	)	Title 15, United States Code,
	)	Section 1 (Price Fixing)
and	)	
	)	Filed: July 14, 1999
HIROMI ITO,	)	
	)	
Defendants.	)	
	)	San Francisco Venue

The United States of America, acting through its attorneys, charges:

I.

DESCRIPTION OF THE OFFENSE

1. NIPPON GOHSEI and HIROMI ITO ("ITO") are made defendants on the charge stated below.

2. From in or about January 1979 until in or about March 1996, defendant NIPPON GOHSEI and co-conspirators, and from in or about June 1986 until in or about April 1989, defendant ITO and co-conspirators, participated in a combination and conspiracy to suppress and eliminate competition by fixing the prices and allocating the market shares of sorbates to be sold in the United States and elsewhere. The combination and conspiracy engaged in by the defendants and co-conspirators was in unreasonable restraint of interstate trade and commerce in violation of Section 1 of the Sherman Act (15 U.S.C. § 1).

3. The charged combination and conspiracy consisted of a continuing agreement, understanding, and concert of action among the conspirators, the substantial terms of which were:

(a) to agree to fix and maintain prices and to coordinate price increases for the sale of sorbates in the United States and elsewhere; and

(b) to agree to allocate market shares among major producers of sorbates in the United States and elsewhere.

4. For the purpose of forming and carrying out the charged combination and conspiracy, the defendants and co-conspirators did those things that they combined and conspired to do, including, among other things:

(a) participating in meetings and conversations to discuss the prices of sorbates to be sold in the United States and elsewhere;

(b) agreeing, during those meetings and conversations, to charge prices at certain levels and otherwise to increase and maintain prices of sorbates to be sold in the United States and elsewhere;

(c) agreeing, during those meetings and conversations, to allocate market shares among major producers of sorbates in the United States and

elsewhere;

(d) issuing price announcements and price quotations in accordance with the agreements reached; and

(e) participating in meetings and conversations to discuss prices and sales of sorbates to be sold in the United States and elsewhere, and exchanging information on sales of sorbates in the United States and elsewhere, for the purpose of monitoring and enforcing adherence to the agreed-upon prices and market shares.

II.

DEFENDANTS AND CO-CONSPIRATORS

5. NIPPON GOHSEI is a corporation organized and existing under the laws of Japan. ITO is the former Marketing and Sales Director of NIPPON GOHSEI's Fine Chemicals Business Department. During the periods covered by this Information, NIPPON GOHSEI and ITO were engaged in the business of producing and selling sorbates for resale to customers in the United States and elsewhere.

6. Various corporations and individuals, not made defendants in this Information, participated as co-conspirators in the offense charged in this Information and performed acts and made statements in furtherance of it.

7. Whenever in this Information reference is made to any act, deed, or transaction of any corporation, the allegation means that the corporation engaged in the act, deed, or transaction by or through its officers, directors, employees, agents, or other representatives while they were actively engaged in the management, direction, control, or transaction of its business or affairs.

III.

TRADE AND COMMERCE

8. Sorbates are chemical preservatives used primarily as mold inhibitors in high-moisture and high-sugar food products. All references to sorbates in this Information include the products potassium sorbate and sorbic acid.

9. During the periods covered by this Information, the defendants and co-conspirators sold and distributed sorbates in a continuous and uninterrupted flow of interstate commerce to customers located in states or countries other than the states or countries in which the defendants and co-conspirators produced sorbates.

10. The business activities of the defendants and co-conspirators that are the subject of this Information were within the flow of, and substantially affected, interstate trade and commerce.

IV.

JURISDICTION AND VENUE

11. The combination and conspiracy charged in this Information was carried out, in part, in the Northern District of California, within the five years preceding the filing of this Information.

ALL IN VIOLATION OF TITLE 15, UNITED STATES CODE, SECTION 1.

_____"/s/"_____
Joel I. Klein
Assistant Attorney General

_____"/s/"_____
Christopher S Crook
Chief, San Francisco Office

_____"/s/"_____
Gary R. Spratling
Deputy Assistant Attorney General

_____"/s/"_____
James M. Griffin
Director of Criminal Enforcement

_____"/s/"_____
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